

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 10-CR-20403
Hon. Nancy G. Edmunds

v.

D-1 KWAME M. KILPATRICK,
D-2 BOBBY W. FERGUSON, and
D-3 BERNARD N. KILPATRICK,

Defendants.

EXCERPT OF JURY TRIAL
VOLUME 78

Detroit, Michigan - Monday, February 11, 2013

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Excerpt of Jury Trial Volume 78
Monday, February 11, 2013

I N D E X

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Detroit, Michigan

Monday, February 11, 2013

12:31 p.m.

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MR. BULLOTTA: Good afternoon, everybody.

Our democracy depends on our elected officials representing us and our needs, and not coming into office and turning it into a personal business. What Kwame Kilpatrick did in this case, in partnership with Bobby Ferguson and Bernard Kilpatrick, is they turned the mayor's office into Kilpatrick Incorporated, a private profit machine.

And their formula was simple, and we talked about it in opening statement, four words, "No deal without me." That tells you almost everything you need to know about this case. If you wanted a city contract, you had to pay. If you didn't pay, you didn't get a contract, and if you had a contract, it got canceled. It didn't matter that your bid was \$1.6 million lower for a water meter contract. It didn't matter if you were the most qualified to build a recreation center in the city and that Bobby Ferguson's company was a higher bid. It didn't matter if the mayor's office got call after call about bad service at Cobo Hall. What mattered was that Kwame Kilpatrick, Bernard Kilpatrick or Bobby Ferguson got paid. That was this administration. They had to get the piece.

Now, it may not have cost the defendants anything,

1 ladies and gentlemen, but it cost the citizens of Detroit and
2 the rate payers of southeast Michigan. Just on Contract
3 CM-2014, the water main contract, Ferguson's team was
4 \$1.6 million higher, and on 2012 Ferguson's team was 47 percent
5 higher and won the bid. On the Heilmann Rec. Center that I
6 just alluded to, Ferguson's team was \$86,000 higher and not the
7 most qualified. On Contract 849, Ferguson was paid
8 \$1.7 million for no work.

9 "No deal without me," that was their mantra, those
10 were their words, that was their scheme. They controlled city
11 contracts, not for the good of the people, but to line their
12 own pockets, and look at what they said about that.

13 Ferguson: "I am famous now, just need to get some
14 money."

15 Kwame Kilpatrick: "LOL, right, let's get you some."

16 Ferguson, correcting him: "Us. Let's get us some
17 money."

18 But, ladies and gentlemen, Kwame Kilpatrick was in a
19 much different position than those other two defendants that
20 are sitting over there. He took an oath to the citizens of
21 Detroit and he shattered that oath and he robbed the people of
22 their right to fair and honest government. All for what? To
23 put Bobby Ferguson on a contract, to make sure that contractors
24 paid Bernard Kilpatrick? Why in the world would he do this?
25 And by the way, those weren't his contracts. Those contracts

1 belonged to the people.

2 But why would a public servant do that? Why? The
3 sad truth is that Kwame Kilpatrick, and you learned it through
4 this case, wanted to help himself more than he wanted to help
5 the people who elected him. His take-home pay was only
6 \$605,000 total for the time he was in office, but during that
7 time, he spent \$1.4 million.

8 He had a \$160,000 salary. He had a free mansion to
9 live in. He had free cars to transport him around town. He
10 had bodyguards going with him everywhere he went. He had a
11 staff waiting on his every beck and call. But that wasn't
12 enough. He needed an additional \$840,000, and that's just the
13 money that hit his banks, the money that we found.

14 Kilpatrick Incorporated didn't start in 2002 when
15 Kwame Kilpatrick became mayor. That was up and running back in
16 the year 2000 when State Representative Kilpatrick pushed
17 \$500,000 in an arts grant to Bobby Ferguson's company, his
18 nonprofit Detroit Three Dimensional, and that was public money,
19 the state's money, that was meant to help people learn about
20 arts and culture.

21 Ferguson told the state that the money was going to
22 be used for seniors and runaways, but how did he really spend
23 the money the state gave him, that Kwame Kilpatrick made sure
24 he got? You heard from Bob Murray from Detroit Interiors.
25 Bobby Ferguson built himself a presidential office with that

1 money, hardwood floors, custom furniture, a spiral staircase
2 that led up to what Mr. Murray called the chilling room at
3 Ferguson's offices.

4 And when the state wanted documentation of how that
5 money was spent, Kwame Kilpatrick got involved, and he told
6 Derrick Miller, "Go get with Ferguson and find out if you can
7 get some documentation." Remember that testimony? And Derrick
8 Miller talked to Ferguson, and he testified that he got the
9 sense that the paperwork didn't exist.

10 Well, ladies and gentlemen, Derrick Miller was
11 right. The paperwork didn't exist. He was using the monies to
12 refurbish his offices, but they had to give the state something
13 because they wanted the second half of it. It was \$500,000.
14 They got the first half, \$250,000, but they wanted the second
15 half, so they had to justify how the first half was spent.

16 So what happened? The state got some invoices, but
17 they were altered or totally fake, and here is what the state
18 got for Detroit Interiors, the Bob Murray work that I was just
19 talking about. In this altered document, it says that they
20 were providing floor preparation for flooring for Detroit Three
21 Dimensional. They were providing work station partitions,
22 seating in a training area. Training area? You heard a lot of
23 questions about a training area.

24 Let's look at the real invoice. And you know there
25 was no training area. This is the invoice we got from Bob

1 Murray, from the company, not what was sent to the state, and
2 it talks about marble molding in a conference room and a foyer
3 and a president's office.

4 Bobby Ferguson didn't just alter invoices.
5 Sometimes he made them up out of whole cloth. He, you heard
6 from Christopher Boettcher, from a company called AirTec, and
7 you heard that Bobby Ferguson put a bunch of these industrial
8 doors installed in Ferguson Enterprises, and to cover his
9 tracks he actually made up an invoice. If you look at these
10 two invoices, the one on the left, Ferguson just made up. That
11 isn't even Mr. Boettcher's invoice from AirTec. He testified
12 about that. If you look at -- and the one on the right, by the
13 way, that's the real invoice as Mr. Boettcher told you.

14 Now, the dates and the invoice numbers are the same,
15 but there's an important difference. On one of them, the real
16 one, the customer is Ferguson Enterprises. On the fake one,
17 the customer is the nonprofit.

18 What else did Ferguson do with this public money
19 that Kwame Kilpatrick got him, \$250,000 of it? Well, he bought
20 himself a house. Actually, half of a duplex on Meyers Street
21 in Detroit. Did he use it to help seniors and runaway youths
22 like he told the state? No. He let it sit there. Nobody
23 lived in it. You heard from Mr. Martin Jolly that it just got
24 run down. Mr. Jolly had to cut the grass around Ferguson's
25 house, and eventually Mr. Jolly bought the house and he told

1 you that inside it was trashed. He said that the pipes inside,
2 someone had dumped cement down the pipes.

3 But Ferguson sold that house and he doubled his
4 money. Actually, I shouldn't say his money. He doubled the
5 state's money, the grant money, and he kept it all for himself,
6 and Kwame Kilpatrick made that all possible back in 2000.

7 And in return, Detroit Three Dimensional, Ferguson's
8 nonprofit, wire transferred \$100,000 of the state grant money
9 to Carlita Kilpatrick's nonprofit called U.N.I.T.E., but that
10 was not enough for Kwame Kilpatrick. He talked to his pastor,
11 Edgar Vann, and told him to put in for a grant. He did, and
12 Edgar Vann got a grant for \$300,000, the State Arts Grant. I
13 mean, Vanguard does good things. You heard from Donna
14 Williams, they do good things in a really impoverished area in
15 the city.

16 But there was only one catch. They had to hire
17 Carlita Kilpatrick and pay her \$75,000. You heard from Donna
18 Williams. She testified that Vanguard did pay \$37,500, half of
19 the money, to her. She was supposed to -- Carlita Kilpatrick
20 was supposed to teach kids at the Sherrard School, the Sherrard
21 School, in a poor area, about nonviolence, and those kids could
22 have benefited, I'm sure, from any kind of classes like that,
23 but the sad truth is that Carlita Kilpatrick didn't teach a
24 single student for that \$37,500. She didn't provide the
25 materials that she said she would in an invoice that was sent

1 to the state.

2 And for her trouble, Donna Williams got an angry
3 phone call from Kwame Kilpatrick. "Why did you tell the state
4 that you paid Carlita?" At the end of the day, Vanguard had to
5 give back that money. They were disallowed that \$37,500, came
6 out of their pocket, that nonprofit that could have helped the
7 people in that neighborhood.

8 Well, the State Arts Grant money isn't the only
9 money that Kwame Kilpatrick stole, and I'll talk about that in
10 a second. I want to talk about the Kilpatrick Civic Fund now.

11 People in businesses were giving money to the
12 Kilpatrick Civic Fund because they thought they were giving
13 back to the community, they thought they were helping people in
14 Detroit, and Kwame Kilpatrick certainly knew better than to use
15 that money to pay for his political campaign for mayor in 2001.

16 Let's look at what he said after he met with his
17 attorneys and they directed him about what the Civic Fund could
18 and could not do.

19 (Videotape was played.)

20 **MR. BULLOTTA:** He was right when he said that. It's
21 not allowed by law and even his own experts said that. You
22 can't use money from a nonprofit like the Civic Fund to pay for
23 your own political election. But you heard from Derrick
24 Miller. He told you that he, Derrick Miller and Kwame talked
25 about whether they could use that money, and they both knew

1 that they couldn't use it on the campaign, but they both said
2 that they would lie in that campaign and deny that it was being
3 used in the election. And Derrick Miller explained why they
4 thought they could get away with it. He said nobody was going
5 to check, nobody could find out, because it was a 501(c)(4),
6 which is different than a straight charity or a campaign fund.

7 There were more lies when it came to the letters
8 that were sent to the donors for the Civic Fund. Here's an
9 example. On the page that talked about the, what the fund
10 does, it stated clearly that, "No funds of the Civic Fund are
11 used or donated to any political campaign."

12 In reality, you heard from the witnesses, the Civic
13 Fund was used to pay for polling expenses like expert companies
14 like Lake Snell and Peter Hart Research, campaign gurus like
15 Bob Berg were paid money from the Civic Fund, and they all
16 testified they had one purpose and one purpose only, and that
17 is to get Kwame Kilpatrick elected mayor. They weren't doing
18 anything for the Civic Fund or for the community at large.

19 What did Kwame Kilpatrick tell people in these
20 letters that it was actually being used for? He gave some
21 examples.

22 Westside Cubs Football, and you heard from William
23 Tandy, and I think you could tell from him, that's a great
24 program. That's what he said the money was going to. Get Out
25 the Vote rallies, seminars on education.

1 But how was it really spent? Well, in 2000, he used
2 it to pay for part of a lease on a really nice Cadillac. He
3 took yoga lessons to the tune of \$3,000, which even
4 Kwame Kilpatrick's own expert said that is not something that a
5 501(c)(4) can do. He went on luxury vacations like going to
6 Vail to the Sonnenalp Resort where he had room massages and
7 facials.

8 And Mr. Thomas, the attorney for Kwame Kilpatrick,
9 tried to suggest that maybe the reason that Kwame Kilpatrick
10 was there was for official business, maybe he was at the
11 convention for, U.S. Convention for Mayors. But you saw the
12 records, there weren't any meetings for any mayoral conventions
13 in Colorado in all of 2002. And look at the mayor's calendar.
14 What did he say he was doing that day?

15 He also went to the La Costa Spa, a beautiful spa in
16 Carlsbad, California, Southern California. He took his family
17 there for a week at about a thousand plus a night, and his bill
18 was, the amount that he spent from the Civic Fund was \$8,600.
19 \$8,600. That's almost the amount of money that
20 Kwame Kilpatrick Civic Fund gave to the Westside Cubs the
21 entire time that it was in existence. That was for one
22 vacation.

23 He paid for his children's preschool parties, for
24 the graduation parties for \$5,000. Again, it was suggested by
25 Mr. Thomas, well, maybe the kids had already graduated and this

1 was just a nice donation to this school. Well, you heard from
2 Linda Byrd, who is one of the owners of the school when it was
3 in existence, and she said that that was for their, the
4 Kilpatrick sons' graduation party, the spirit week that year.

5 Then there was summer camp, \$7,000 to send the
6 Kilpatrick twins to summer camp, along with Jeff Beasley, the
7 treasurer's son. Then there were golf clubs, \$3,000, part of
8 which were used to buy Nike graphite shaft golf clubs and an
9 embroidered bag that said "The Mayor" on it.

10 And as he was heading out of town, Kwame Kilpatrick
11 tried to actually use a Civic Fund check to pay for furniture
12 from the Manoogian Mansion to take it with him, except that
13 didn't work out very well because Mary Fleming, you heard her
14 testify, she has ethics, and she said, "I can't take this
15 check. I can't take a check from a Civic Fund to pay for your
16 personal furniture." And Kwame Kilpatrick tried to play it off
17 like, oh, that was an accident, that was a mistake.

18 Well, you heard from April Edgar. The person who
19 writes the checks for the Civic Fund was one person, that was
20 Kwame Kilpatrick.

21 And as the Civic Fund was winding down,
22 Bobby Ferguson put \$75,000 in it. This is when the Civic Fund
23 is about to be no more. Was he giving money to charity, to
24 help the community? I suggest that he was simply sharing
25 \$75,000 of the spoils of Kilpatrick Incorporated with a

1 coconspirator.

2 You heard from the victims, the people that gave
3 money, thinking that they really were going to be giving back
4 to the community where they're doing business, people like Fred
5 Prime and Gwendolyn Butler and Mary Pugh and Max Berger, and
6 they testified they had no idea that the money was being used
7 for personal expenses or political campaigns.

8 And that's where we get to mail fraud. You heard
9 the judge talk about it in the instructions. When you concoct
10 a scheme to get people to give you money under false pretenses,
11 like false pretenses, for example, you tell the state that
12 you're going to use money for runaways and seniors and you're
13 really not, or with the Civic Fund, you tell the donors that
14 you're not using money for campaigns or personal expenses but
15 you are, and then you use the U.S. Mail in some way, that's
16 mail fraud. It's a federal crime, and those crimes are charged
17 in this case and they've been proven.

18 And for mail fraud, by the way, if you use Federal
19 Express, that's where you heard testimony about Federal Express
20 records, that's the same as the U.S. Mail, it's still
21 considered mail fraud.

22 And then for wire fraud, the only difference is that
23 wire fraud can be a fax, as long as the fax is sent between two
24 different states. So if you send a fax within Michigan, that
25 couldn't be a wire fraud count. It would have to be from

1 Michigan to, in our case, we charged Michigan to Illinois. It
2 would have to be between two states. But that's wire fraud,
3 and that's what happened here with both the State Arts Grants
4 that they stole and also the Civic Fund money.

5 I said at the beginning that Kwame Kilpatrick was
6 using his office for personal profit. How do you know that
7 beyond any doubt? You look at his bank records. You look at
8 what his bank records were doing before he became mayor in
9 2001. You saw all those cash deposits when he was mayor.
10 Let's look at how many cash deposits were there in 2001 in his
11 bank account in Lansing that he was using. Zero, no cash
12 deposits. Withdrawals were just typical withdrawals, you saw
13 the records on those when Agent Sauer testified. He was acting
14 like a normal person without bribe money and lots of cash
15 coming in.

16 Well, something changes in 2002. It takes a little
17 while to get going, but in 2002, the cash starts pouring in,
18 cash payments on his First Independence MasterCard, cash
19 deposits at his Chase Bank account. And I would ask you to
20 look at those records, and if you do that, you'll see there's
21 no spike around his birthday or Christmas. This is a constant
22 flow of cash.

23 And remember, too, that this cash is all apart from
24 his salary. This is not his salary. It's direct deposited
25 into his account. And, again, this is only the cash that hit

1 his banks. This is not all the cash that potentially that he
2 had or was given.

3 And, of course, that raises the question, where did
4 it come from? The cash has to come from somewhere. Well, you
5 heard where some of it came from. You heard from Emma Bell and
6 Karl Kado and Derrick Miller and Jon Rutherford, and I'll talk
7 about those people in a bit, but those people weren't his main
8 source of cash.

9 It can be no mystery why Kwame Kilpatrick went above
10 and beyond the call of duty, way out of his way to hold up
11 contracts, to cancel contracts, if Bobby Ferguson wasn't going
12 to get on them. Bobby Ferguson had to get on them. There's a
13 reason for that, ladies and gentlemen, and that's because
14 Bobby Ferguson was sharing the spoils, the profits of
15 Kilpatrick Incorporated.

16 It's in their texts. We talked about the -- we
17 talked about the, "Let's get us some money" text. I already
18 put that up. There's another text you may remember from the
19 case, Ferguson to Kwame Kilpatrick, "The safe is in the room --
20 or safe in the room is in the closet where you hang the coats.
21 The code is 1011. There's \$7,500."

22 And you heard from an eyewitness who delivered
23 \$90,000 cash from Bobby Ferguson to Kwame Kilpatrick in 2008.
24 This was Mahlon Clift, he was a trusted friend of
25 Kwame Kilpatrick's. In fact, Mr. Kilpatrick stood up for

1 Mr. Clift at his wedding. And you might be wondering why in
2 the world didn't Bobby Ferguson, if he wanted to give \$90,000
3 to Kwame Kilpatrick in 2008, why didn't he just hand it to him?
4 Why didn't he just give it to him? Why did Mahlon Clift have
5 to take \$90,000 in cash from Bobby Ferguson in a hotel room,
6 hide it in his pants, fly to Chicago, stuff it in his vacuum
7 cleaner and then fly down to Southlake, to Texas, to meet
8 Kwame Kilpatrick to give him half of the money?

9 And you have the Hilton records, by the way, the
10 Hilton Dallas/Southlake Town Center records that show that both
11 Kwame Kilpatrick and Mahlon Clift were at the same hotel in
12 September of 2008 at the same time. Why did that have to
13 happen? You know why. This was not a gift. These were the
14 spoils of Kilpatrick Incorporated.

15 You heard from other people who testified to giving
16 cash to Kwame Kilpatrick. You heard from Emma Bell. Emma Bell
17 had a hard time testifying. You all saw her. She considered
18 Kwame Kilpatrick like a son to her, and it was really
19 difficult. I think you remember the pauses when I was asking
20 her questions, and it was the hardest thing in the world for
21 Ms. Bell to answer the question that I asked her and to admit
22 that the boy she saw grow into a man and become mayor of this
23 city asked her, requested her to give him cash kickbacks from
24 her campaign fundraising commission checks. That was really
25 difficult for her to do.

1 And Jim Thomas, counsel for Mr. Kilpatrick, pressed
2 her really hard on cross examination, and she told him and all
3 of you, "There are two people in this room and God that know
4 what happened," and she told you she was telling the truth
5 about that.

6 Let's look at her bank records. Here's one bank
7 record from August 4th of 2003, but flip it over and see what
8 day she negotiated the check. This is the day she got cash in
9 her hand, August 6, 2003. Let's check text messages from that
10 day. DeDan Milton to Kwame Kilpatrick, "Emma wants to stop in
11 at five, ten minutes max."

12 Follow-up text from Kilpatrick's secretary, "Emma is
13 here."

14 Well, why can't Emma Bell, if she just needs to talk
15 to the mayor for five minutes, why can't she call him on the
16 phone? Emma Bell is someone that doesn't even drive, she has
17 to be driven places. Why is it so important that she has to
18 come see him in person? And she told you why. She had to give
19 him cash.

20 And this cash kickback scheme, by the way, that's
21 charged in the indictment as another mail fraud because the
22 mails, as you heard from Derrick Miller and from Emma Bell, the
23 mails were used to solicit campaign fund donations to
24 Kilpatrick For Mayor, and they were also used to solicit
25 Kilpatrick Civic Fund monies. And Kwame Kilpatrick, by taking

1 cash kickbacks, is defrauding the donors. They have no idea
2 that he's taking cash kickbacks for himself. That's also mail
3 fraud.

4 I'm going to change gears for a second and talk
5 about Jon Rutherford. Jon Rutherford, the -- you can say that
6 he's a homeless shelter tycoon, made millions of dollars on
7 homeless shelters in the city. And right now he's on his way
8 to federal prison. Perhaps one of the most shocking things
9 about this is that Kwame Kilpatrick accepted money from him and
10 his homeless shelters for his campaign and all kinds of other
11 payments totaling around \$293 [sic].

12 But Kwame Kilpatrick did something else that's
13 illegal, which is he solicited cash from Jon Rutherford,
14 \$10,000 to go to Dubai and buy some suits; \$5,000, I think he
15 said 2 to \$5,000 in Las Vegas to -- for spending money, and
16 Rutherford was happy to give him the cash. But make no mistake
17 about one thing, Kwame Kilpatrick knew why Rutherford was happy
18 to give him cash. Rutherford wasn't his friend.

19 Jon Rutherford wanted something, and that was a casino
20 development on the riverfront, and he was willing to pay cash
21 bribes to Mayor Kilpatrick for that to happen.

22 When you're a public official and you accept cash
23 like that or you ask for cash, and you know that it's not being
24 given because you're the person's friend or you're getting a
25 loan or it's a gift. You know that that person expects you to

1 treat them well with their contract or do something in your
2 official position to help them. That's bribery.

3 Now, if Kwame Kilpatrick taking bribes from
4 Jon Rutherford were all we had in this case, that would be
5 terrible enough, but it's not.

6 You heard the judge talk about obstruction of
7 justice. We have that in this case. Obstruction of justice,
8 as it came in in this case, if you try to get someone to lie to
9 a federal grand jury during an investigation, even if you're
10 not successful but you just try to get them to lie, that's the
11 crime of obstruction of justice. And that happened here
12 because Bobby Ferguson was trying to secretly get \$40,000 to
13 Kilpatrick For Mayor, and so he gave these money orders to a
14 bunch of people that totaled \$40,000. Some of those people
15 were the three women that you heard testify in this case.

16 And when the federal grand jury started
17 investigating this transfer of money through these straw
18 donors, you heard what Bobby Ferguson did. He tried to get
19 them to lie to the FBI and also in the federal grand jury. And
20 one woman, Darlene Jefferson, said that she even found
21 Bobby Ferguson showing up unannounced in her bedroom to tell
22 her to lie to the grand jury, "Say it's your money, not my
23 money."

24 Okay. It's time to go to Detroit Water and Sewerage
25 Department. This is a big part of our case.

1 It didn't take very long at all for Kilpatrick
2 Incorporated to figure out where the big money was in the city,
3 the big contracts, and that's at the Detroit Water and Sewerage
4 Department. Their budget is a billion dollars every year.

5 But how would Kilpatrick Incorporated be able to get
6 their piece of these water contracts? They would use their
7 same formula, and it worked. And, boy, did it work.

8 Bobby Ferguson's revenues, just from the contracts that you
9 heard about in this case, \$83.8 million. Bobby Ferguson was
10 Kilpatrick Incorporated's \$83 million man. It's a lot of
11 money. And they got it, we'll talk about in a second, through
12 the crime of extortion.

13 But I want to talk about a company called Lakeshore,
14 Lakeshore Engineering, one of the companies that was extorted.
15 Lakeshore Engineering is a Detroit-based minority enterprise
16 that was up and coming in 2002. In fact, they went to the
17 White House, and they got an award from President Obama for
18 being the best -- or the Small Business of the Year that year.

19 Now, the defendants would like you to believe that
20 they're all about helping minority companies and helping
21 companies like Lakeshore, but as you saw with the evidence, the
22 only color that really mattered to Kilpatrick Incorporated was
23 green. They cared about the money.

24 Let's talk about a contract called 1361. It's a
25 \$10 million sewer contract. Lakeshore won this contract fair

1 and square. It was approved by the water board and the city
2 council, but before the mayor would sign off on it, Tom
3 Hardiman, the gentleman that you see on the right, got a
4 visitor at his home, and that visitor was Bobby Ferguson.
5 Bobby Ferguson said he wanted 25 percent of his contract, 1361.
6 Hardiman said, "We have our team in place, they're 100 percent
7 Detroit-based. We have a minority excavator named Billy Hayes.
8 Thanks, but we don't need you. And, besides, we already got
9 the contract."

10 Ferguson said these ominous words, "It's still got
11 to go by the mayor's desk."

12 Well, that was enough to worry Mr. Hardiman, so he
13 went and talked to his partner, the other gentleman you saw up
14 in the picture, that's Avinash Rachmale, and he talked to him
15 about this thing that Ferguson said about, "It still has to go
16 across the mayor's desk." So they decided that they would
17 offer Ferguson 10 percent of 1361, even though they didn't need
18 him, so they brought the offer back to Ferguson. What did
19 Ferguson say? He said, "We'll see."

20 Meanwhile, Derrick Miller testified about this. He
21 was talking to Victor Mercado, the head of the Water and
22 Sewerage Department. Victor Mercado told Miller that the mayor
23 was having him hold onto 1361. How do we know that the mayor
24 was really holding onto it? Look at what the mayor said.

25 Ferguson: "You haven't released that contract,

1 right?"

2 Kwame Kilpatrick: "Right. They know I'm holding
3 it."

4 Ferguson, "I need to hold it for a long time."

5 He not only held it, but he canceled it because
6 Lakeshore would not agree to pay 25 percent to Bobby Ferguson.

7 Derrick Miller told you that the mayor said to tell
8 Victor Mercado to cancel the contract, and he did that. And
9 that contract was canceled. So after not agreeing to
10 Ferguson's 25 percent, Lakeshore lost a big contract. At the
11 time, they were pretty small, and that was a huge contract for
12 them, \$10 million.

13 And at about the same time, a little later, they had
14 another contract ripped off of the agenda of the water board, a
15 contract called 1387. And so when Tom Hardiman testified, he
16 kept doing this over and over, I think you probably remember
17 it, when we asked him, "Why did you pay this to Bobby? Why did
18 you do this to Bobby? He was your subcontractor, why did you
19 feel like you had to?"

20 Ten and five. Ten and five. \$10 million contract
21 they lost with no Ferguson, 1361, and the \$5 million contract
22 they lost that they didn't have Ferguson on, that was 1387.
23 Lakeshore learned the lesson of Kilpatrick Incorporated, "No
24 deal without me."

25 Well, what happened to the work that was supposed to

1 be done on 1361? They still had to do the work on 1361. It
2 got rolled into another contract called 1368, and that was a
3 contract held by Inland Waters, who I'll talk about in a
4 second. Why did Inland get the work from 1361? Because they
5 had agreed to put Ferguson on that contract, and they were
6 extorted, and I'll talk about that in a sec.

7 Now, Lakeshore learned their lesson. Ten and five.
8 So the next big contract that came up was this DWS-849. It was
9 a \$20 million contract to renovate the sewer outfalls in the
10 Detroit River. Lakeshore put Ferguson on their team, and
11 Lakeshore won this contract, and there's a meeting that
12 happened between Tom Hardiman of Lakeshore, Bobby Ferguson, and
13 one of the other subcontractors. And this is a really, really
14 informative meeting to understand what was going on at the
15 time, and you can actually eavesdrop on that meeting right now
16 by looking at the text messages. Let's look at it.

17 "Tom," which is Tom Hardiman, "is here." This is --
18 by the way, this is a text message from Ferguson to Derrick
19 Miller. Ferguson says to Miller, "Tom is here saying the same
20 thing you are saying, and telling them," that's the other
21 subcontractor, "no deal without me. He gotten smart," he being
22 Hardiman, "I am just sitting here listening."

23 Now, think about that, ladies and gentlemen, think
24 about what that means. Ferguson doesn't have to say anything.
25 They showed -- he showed his pallor when he lost -- when

1 Lakeshore lost the \$10 million contract and the \$5 million
2 contract. He just sits there at this meeting while Hardiman
3 tells the other subcontractor, "Hey, there's no deal without
4 Ferguson." At this point, Kilpatrick Incorporated is running
5 on auto pilot. Ferguson doesn't have to say anything.

6 And Mr. Hardiman testified why he kept including
7 Ferguson. He said it was a simple equation, he said,
8 "\$10 million contract, no Ferguson, canceled," that was 1361,
9 "\$5 million contract, no Ferguson, canceled," 1387.

10 \$20 million contract, that's 849, with Ferguson,
11 awarded. "No deal without me."

12 What happened, actually, on 849? How did that go
13 for Lakeshore, dealing with Ferguson? Well, Ferguson wouldn't
14 reach an agreement as to the work that he was going to do, and
15 instead of just cutting him out like Lakeshore would normally
16 do for a subcontractor that was not cooperating, they couldn't
17 do that, so they had to pay him.

18 They paid him a million dollars initially. That
19 number grew. They paid him a million dollars on that 849 to do
20 nothing, absolutely nothing, and then there were change orders
21 that had to happen on 849. Ferguson demanded to be paid on
22 those change orders five percent, so he got another \$375,000,
23 again, for nothing. Why? Ten and five. Lakeshore was afraid.

24 And then one of the most amazing things of all is
25 this asbestos abatement contract you heard about. Lakeshore

1 had gotten this contract without having Ferguson even on their
2 bid. They had already had the contract but they needed to get
3 a change order through the city, and they ended up paying
4 Ferguson five percent of a change order that Ferguson had
5 nothing to do with, even on paper. And we asked
6 Avinash Rachmale, one of the owners of Lakeshore, "Why in the
7 world would you do that? Why would you pay Ferguson on this
8 asbestos contract?" And this is what he said, "We did not want
9 any of our contracts stopped for unfair reasons."

10 Mr. Rachmale basically defined extortion for you.
11 That's what extortion is. It's illegal to make somebody pay
12 you something that they don't owe you by putting them in fear
13 of economic harm, that they're going to lose out financially.
14 That crime is illegal, and that crime was the signature move of
15 Kilpatrick Incorporated.

16 Now, Bobby Ferguson's defense team would like you to
17 believe that all these payments on 849, that was just a
18 business contract agreement. That was just money coming in in
19 the normal course of business. Well, if that's true, why would
20 Bobby Ferguson need to send invoices that were totally bogus,
21 invoices from a company called Johnson Consulting? Actually,
22 it says "Consulant" there, but it meant to say "Consulting," I
23 think. Contract for services and materials that never
24 happened.

25 Ladies and gentlemen, this document here, and it's

1 LS2-17, that is literally the scene of the crime of the
2 extortion. This money was money that they had -- part of the
3 money that they had to pay Ferguson for nothing, and that
4 \$25,000, you might remember the testimony of Mr. Hardiman, how
5 Ferguson demanded that he be paid \$25,000 by the end of the
6 day, that Rachmale and Hardiman were running around like
7 chickens with their head cut off trying to come up with \$25,000
8 cash, and then Hardiman eventually delivered that money to
9 Ferguson that day. That is the scene of the extortion crime
10 right there.

11 I want to talk now about a contract for water mains
12 called 2014. This contract was a contract that Lakeshore also
13 put -- well, let me back up and say this. Ferguson wasn't on
14 this contract. Ferguson Enterprises was not on this contract,
15 2014. It was a \$13 million contract that Lakeshore eventually
16 got, so you might ask, is "No deal without me" not in place?
17 That's not true.

18 You heard the testimony that Ferguson couldn't be on
19 this contract with Lakeshore in name because Ferguson was also
20 on the same bid with another company called DCI. There were
21 two water main contracts. One was for the east side and one
22 was for the west side. The east side was 2014, the west side
23 was 2015. Ferguson was already on the bid to get one of those,
24 so he couldn't be on the contract with Lakeshore, but Ferguson
25 told Lakeshore put Eric Simmons' company, E&T Trucking, put

1 them on the contract. That was Ferguson's front, that was his
2 proxy.

3 So Lakeshore did win the contract, and we'll talk
4 about that in a second. There was major bid rigging that went
5 on with that contract, and I'll get to that in a second.

6 But let's just talk but what happened on 2014 with
7 Lakeshore working with Ferguson. No surprise, more extortion
8 happened. Bobby Ferguson demanded that Lakeshore pay \$820,000
9 to Xcel, Ferguson's construction management company, and they
10 agreed to do that. They didn't want to do it, though, they
11 pushed back on that. They didn't need a management company.
12 That's what Lakeshore does, they manage their own contracts.

13 Why did they pay it? Mr. Hardiman told you.
14 Ferguson told them when he was pushing back, "I'll get your
15 contract stopped," and he knew that he could do that. Ferguson
16 told Avinash Rachmale, "I will shut down your job." You even
17 heard from another witness, Bernard Parker, III, at the time he
18 was working with Ferguson. Ferguson, he testified, told him to
19 go tell Lakeshore, they're not going to get anything else from
20 the city or DWSD until they pay him.

21 Now, if you're wondering whether Mr. Hardiman and
22 Mr. Rachmale were really afraid, were they really in fear of
23 economic harm? Well, they testified that they were. If you
24 have any question, look at the money that they spent giving to
25 Ferguson. Look at \$75,000 for nothing on the asbestos

1 contract. Look at \$820,000 to Xcel for nonexistent management
2 fees. Look at \$1.7 million on 849 for nothing, including the
3 \$25,000 cash that they had to hustle up at the last minute.
4 Why in the world would they pay all that money if they weren't
5 afraid?

6 And something else to consider, when
7 Kwame Kilpatrick left office, Mr. Hardiman told you Ferguson
8 got ahold of him and asked him if he wanted to do some business
9 together. Remember what Hardiman said he told him? "We'll
10 see." And Hardiman said it was easy to say no after the mayor
11 was gone.

12 Now, I told you these contracts were rigged for 2014
13 and 2015. This is a little bit complicated. I'll try to make
14 it easy for you. Took me awhile to figure it out. These
15 contracts, like I told you, there were two contracts, 2014 and
16 2015, and they were for east side and west side water mains.
17 2014 was east, 2015 was west.

18 Now, Ferguson was on two different teams. He was on
19 a team with Xcel. Through Xcel, he was on a team with DCI.
20 And you can see them on the chart. And he was also on a team
21 through E&T with Lakeshore.

22 Now, after -- and you heard testimony from Darryl
23 Latimer about this.

24 After the first tabulation of the bids, which was
25 done with the standard method, the cost method, Lakeshore --

1 Ferguson's team with Lakeshore lost, and so did Ferguson's team
2 with DCI. They both lost. They have to finish in the top two
3 to win. Ferguson's team finished third with DCI and fifth with
4 Lakeshore, so they weren't going to get the contract.

5 Well, was that the end of the story? No, it was
6 not. You heard from Darryl Latimer, Victor Mercado wanted
7 another tabulation, and they used something called the average
8 cost method, something never used, as far as Latimer knows, in
9 these kinds of contracts, something maybe used for, he said, a
10 services contract, but not for, not for a contract like 2014.

11 And also, keep in mind that they changed -- they
12 changed gears on this after the bids were submitted. So the
13 people bidding had no idea that it would be an average cost
14 method analysis of their bids. Not exactly fair.

15 So after this average cost method tabulation, look
16 what happens. Ferguson's team with -- his Xcel with DCI gets
17 into the second spot. So that's great for Ferguson, he wins,
18 one of his teams wins. They're going to get one of the two
19 contracts. But Lakeshore didn't, so Ferguson's team with
20 Lakeshore didn't win.

21 Kilpatrick Incorporated was not satisfied with only
22 one of Ferguson's teams getting one of the contracts. They
23 wanted both, so they took drastic measures. You heard
24 testimony from Kim Harris, deputy director of the Human Rights
25 Department, and he told you about something that happened. He

1 told you that his boss, the director, who reports to
2 Kwame Kilpatrick, came into his office -- the fellow's name is
3 Gerard Grant Phillips, who is not with us anymore -- but he
4 came into Mr. Harris's office and he told them, "Pull the
5 Detroit-headquartered certificate for DLZ," and Mr. Harris told
6 you that made him very uncomfortable.

7 He had been involved in the investigation to
8 determine whether or not DLZ should get that certification, and
9 he believed that they should. He got an opinion from the City
10 Law Department that it was proper that DLZ should be
11 Detroit-headquartered, but he was being told now, "Pull their
12 certificate." He pushed back, and he told his boss, "This is
13 not right." His boss told him, "The mayor wants it done."

14 So he did it. He drafted a letter, and the letter
15 revoked DLZ's certificate. The letter didn't go to DLZ, by the
16 way, it went to the water department. But what's interesting
17 is that the letter not only revokes DLZ's certificate, but it
18 backdates the revocation, it's retroactive. It goes back in
19 time to February 2nd of 2006, before the bids were due for the
20 contract. And Bobby Ferguson and Kwame Kilpatrick got the
21 result they wanted, and DLZ drops down and Lakeshore and FEI
22 move up into the winning spot.

23 Now, there was a cost to this, ladies and gentlemen.
24 By doing this, the cost was \$1.6 million. That's how much
25 higher that contract cost over DLZ's, who should have had the

1 contract.

2 Do you want to take --

3 **THE COURT:** Want to take a break?

4 **MR. BULLOTTA:** Five minutes now, or if they want to
5 keep going...

6 **THE COURT:** You're probably halfway through. Let's
7 take a break.

8 **MR. BULLOTTA:** Okay.

9 (Jury out 1:18 p.m.)

10 **THE COURT:** Ten minutes, please.

11 (Recess taken 1:18 p.m. until 1:33 p.m.)

12 (Jury in 1:33 p.m.)

13 **THE COURT:** Be seated.

14 **MR. BULLOTTA:** When we broke, I was about to go to
15 another company who was a victim of extortion. This is a
16 company called Inland Waters. This is a company that's based,
17 headquartered in Detroit. You heard from Tony Soave, who I
18 think you might remember was a bit of a character. He
19 testified in this case, along with Kathleen McCann, one of his
20 vice presidents.

21 Well, they got a contract called 1368. That was a
22 big contract, \$50 million contract, but they got that contract
23 under Mayor Archer, but it still hadn't been -- and the water
24 board, by the way, had approved it, but it still hadn't been
25 signed off by the mayor's office when Kwame Kilpatrick came in

1 in 2002.

2 Tony Soave came to find out that Kwame Kilpatrick
3 was actually holding onto this contract, and Tony Soave was
4 getting worried. He was getting worried because he had
5 employees, he told you, that were waiting to start. He said he
6 was going to lose millions of dollars if this thing kept
7 getting held, and people, Detroiters, were going to lose their
8 jobs. So he took the measure of actually making an appointment
9 to talk to Mayor Kilpatrick. He had a personal meeting with
10 him on April 23rd, 2002, and he said to the mayor, he said,
11 "You know, what's the holdup?" I think those were his words,
12 "What's the holdup?"

13 And Mayor Kilpatrick didn't say, "What holdup, what
14 are you talking about?" He said, "You have the wrong
15 subcontractor."

16 Mr. Soave testified he said, "Who's the right one?"

17 Kwame Kilpatrick told him, "Bobby Ferguson."

18 That's the first time that Mr. Soave, Tony Soave,
19 ever heard the name Bobby Ferguson, and he was asked about this
20 because he ended up making a switch.

21 He was asked, "What did you think the mayor was
22 saying about having the wrong subcontractor?" And he
23 testified, he said, "I thought if I didn't put Ferguson on my
24 job, I didn't take out Charlie Williams," the contractor that
25 he already had lined up, "the mayor was not going to release

1 the contract."

2 Tony Soave didn't need Bobby Ferguson. He had
3 Charlie Williams, the former director of the entire DWSD,
4 someone that Soave eventually did mentor into having a
5 multi-million dollar company, but he had to kick him out. He
6 didn't want to lay off employees, he didn't want to lose
7 millions.

8 Kathleen McCann, she testified, and she was clear as
9 a bell. She testified 1368 was stuck in the mayor's office.
10 They were going to have to lay people off, she testified, and
11 she talked to Tony Soave after he had the meeting with
12 Mayor Kilpatrick. Soave told her, "Williams out, Ferguson in."
13 And she described her relationship with Ferguson, the
14 relationship of Inland with Ferguson, as a forced marriage,
15 forced by the mayor of the city.

16 And so they worked together. Well, how did that
17 work out? You could say it was a troubled marriage. Soave
18 testified that Ferguson wanted to be paid.

19 Tell me if this sounds familiar, he wanted to be
20 paid for no work, work that he didn't even do, and it got so
21 bad with Ferguson that Soave went to the mayor and asked him,
22 "Is Bobby, is he still your guy?" And the mayor said, "Yeah,
23 he's still my guy."

24 And Soave said if the mayor had said no, he would
25 have cut out the work that Ferguson was getting, maybe he would

1 have even kicked him off all together, but he couldn't, he was
2 still the mayor's guy. Soave testified that in 25 years of
3 doing business in this city with the various mayors over the
4 years, he's never had a mayor tell him, "You got the wrong
5 subcontractor."

6 And Kathleen McCann described the relationship with
7 Ferguson. She testified she felt she was breathing in air
8 thick with threats, and she actually took notes of her meetings
9 with Ferguson. We asked her, "Why in the world were you taking
10 notes?" And she said she felt, "Some day we would be telling
11 this story," and how prophetic she was. She was right about
12 that.

13 And speaking of 1368, a terrible thing happened on
14 August 22nd of 2004. The earth gave way in a neighborhood in
15 Sterling Heights. There was a big sinkhole there because of
16 the sewers collapsing. How did Kwame Kilpatrick and
17 Bobby Ferguson respond to this emergency? Ferguson, "We need
18 to meet on how I move in. I got a great idea, sir. Holla in
19 the a.m."

20 Well, Ferguson did move in. He got work on the
21 sinkhole, but not enough to satisfy Ferguson. At some point
22 Inland needed to get an amendment passed, Amendment Number 4,
23 they needed to be paid for additional work. "No deal without
24 me" kicked in again. That amendment was held up by
25 Kwame Kilpatrick because Bobby Ferguson wasn't getting enough

1 money. Derrick Miller testified that the mayor told him, "I am
2 going to hold the Amendment Number 4 until they pay Bobby."

3 Again, Bernard Parker, III, who worked for various
4 of these companies, he testified that he met with Ferguson at
5 Ferguson Enterprises to talk about Amendment Number 4, and
6 Ferguson said, "The amendment isn't going to move until I get
7 paid." So Bernard Parker, III went directly to
8 Mayor Kilpatrick and asked him, "Sir, why are you not -- why
9 are you not signing Amendment Number 4?"

10 And this is pretty amazing, his response.
11 Mayor Kilpatrick tells him, "You have to talk to Bobby." The
12 mayor of the city is telling Bernard Parker to go talk to a
13 private contractor to find out why he isn't signing the
14 amendment.

15 Ultimately, though, Amendment Number 4 was signed,
16 but only after Inland agreed to make a payment to Ferguson of
17 \$350,000 for nothing. Another extortion special by Kilpatrick
18 Incorporated.

19 Let's switch gears. Walbridge Aldinger is a large
20 Detroit-headquartered and Detroit-based company. They do huge
21 projects, and they were bidding on a project called Baby
22 Creek/Patton Park. It was a \$75 million sewer project with a
23 \$10 million addition to build a recreation center called Patton
24 Park, and the bids had been opened and Walbridge was neck and
25 neck with another company called Walsh. Depending on how the

1 equalization credits were applied, it could be Walsh, it could
2 be Walbridge. Walbridge was worried. This is a huge contract.
3 And at the time, Bernard Parker, III was working for Walbridge,
4 so they told him, "Go find out what's going to happen with this
5 contract."

6 So Bernard Parker III testified he went and met with
7 Derrick Miller. Derrick Miller gave the order, no deal without
8 the order, "You got to put Bobby on this contract."

9 Bernard Parker then brought the news back to
10 Walbridge and said, "We got to put Bobby on this contract."
11 They didn't need Bobby on that contract, but they were worried
12 about losing it. That's a huge contract, \$75 million plus
13 \$10 million, so Ron Hausmann of Walbridge and Bernard Parker
14 and Ferguson, they all met at Walbridge's offices, and at that
15 time Walbridge caved, and they wrote this handwritten contract.
16 It looks like it's a computer, but it's actually Mr. Hausmann
17 wrote that by hand. The extortion is spelled out in this
18 contract. If we get the contract, we will give part of it to
19 Bobby Ferguson. They didn't need Bobby Ferguson.

20 If you have any doubt that Kwame Kilpatrick was
21 behind the scenes on this contract and this extortion, consider
22 this text message from Ferguson to Kwame Kilpatrick at this
23 time.

24 Ferguson, "Walbridge is not playing ball. They need
25 to be made believers that they are not in control."

1 That is for sure, ladies and gentlemen. Walbridge
2 was not in control. Kilpatrick Incorporated was in complete
3 control.

4 Well, Walbridge added Ferguson, as I said, with that
5 handwritten agreement, and Ferguson and Walbridge won the Baby
6 Creek contract and Ferguson ended up pocketing in revenues
7 \$13.4 million.

8 One more contract involving Walbridge I want to
9 mention. You heard about this Oakwood Pump Station contract,
10 another huge contract. This is a \$140 million contract.
11 Walbridge tried for it, but they didn't get it. What's the
12 difference? They didn't agree to Ferguson's demands. Ferguson
13 wanted 30 percent of the contract, but he didn't want to take
14 any of the risk. He didn't want to put up a bond equal to what
15 he wanted. Ferguson even got the deadline for the bids
16 postponed so he could try to extort this 30 percent from
17 Walbridge. Walbridge didn't cave in and Walbridge didn't win
18 that contract. "No deal without me" was in full force and
19 effect.

20 I want to mention another contract you heard about,
21 another -- I know there are a lot of contracts, but I saw your
22 notes when you were taking them, I saw that you were taking
23 notes, so I think you have -- probably have a lot of notes back
24 there.

25 Heilmann Rec. Center. There's a guy named Johnson

1 Akinwusi. Johnson Akinwusi owns JOA Construction. And Johnson
2 Akinwusi testified that when Mayor Kilpatrick came into office,
3 he started -- his business started drying up. He wasn't
4 getting the construction jobs with the city that he was used to
5 getting, and so he went to his friend, and he asked for advice,
6 "What should I do?"

7 And his friend turned out to be Larry Alebiosu, who
8 was Kwame Kilpatrick's tailor at Fashion International. And
9 Mr. Alebiosu told Mr. Akinwusi, he said, "Well, the mayor has
10 some suits here, maybe you could pay on his suits on layaway,
11 and that might get you some work."

12 Well, Mr. Akinwusi was pretty desperate, so he spent
13 \$4,800 to pay off Mr. Kilpatrick's suits at Fashion
14 International, and Mr. Alebiosu testified that he told the
15 mayor that Mr. Akinwusi paid off his suits and, lo and behold,
16 Mr. Akinwusi gets a letter, an invitation to bid on a city
17 project, and that was on the Heilmann project.

18 But shortly after that letter, Mr. Akinwusi got a
19 visit at his front door from Bobby Ferguson's frontman at Xcel,
20 Mike Woodhouse. Mike Woodhouse told Mr. Akinwusi, "Xcel wants
21 36 percent of this contract. We want to be the construction
22 manager." Mr. Akinwusi testified he didn't need a construction
23 manager, just like Lakeshore didn't need to pay \$820,000 to
24 Xcel on 2014, but Akinwusi agreed to give Xcel 36 percent.
25 Why? Because he wanted to hire a construction manager? No.

1 He told you, "If we didn't pay Bobby, the job would not go."

2 "No deal without me" was rampant in the City of
3 Detroit.

4 This contract, by the way, was also rigged. This
5 contract was won by JOA and Xcel, a joint venture, but they
6 finished almost dead last out of five companies. They were
7 ranked four out of five, but there was an ace in the hole
8 because Kwame Kilpatrick, through Christine Beatty, controlled
9 the Detroit Building Authority. That was the authority that
10 was running this contract. And Christine Beatty was the
11 chairman of the board of the DBA, and under her was a woman
12 named Ayanna Benson, and that's Mayor Kilpatrick's second
13 cousin.

14 And so even though they finished fourth out of
15 fifth, the second to lowest, and they weren't qualified,
16 according to LaJuan Wilks, who I'll talk about in a second,
17 because JOA had never done a recreation center, they won the
18 bid on June 19, 2003. Check out this text message from that
19 same day.

20 Ferguson to Christine Beatty. Ferguson, "Thank you.
21 I love you. You are for sure my sister."

22 Beatty, "What did I do?"

23 Ferguson, "Benson."

24 Beatty, "Oh, you know I was going to take care of
25 you.

1 Yes, members of the Kilpatrick Incorporated, they
2 took care of each other. Bobby Ferguson's team got that
3 contract. They did not deserve it. They were much higher,
4 \$82,000 higher, and they were not qualified.

5 Well, what happened on the recreation project? Was
6 that a good decision? Did that help and benefit the people of
7 this city?

8 LaJuan Wilks testified they did a terrible job. She
9 knew that -- she did not vote for JOA. They'd never done a
10 rec. center, and they didn't even get the air conditioning and
11 the heat in the locker rooms. She talked about that.

12 Xcel wasn't even showing up on the job, she
13 testified. But she made a big mistake, she complained to her
14 boss, the deputy director of the recreation department,
15 Mr. Vincent Anwunah. She complained about Ferguson's company
16 Xcel, and what did that get her? That got her a trip to her
17 boss' office, and waiting for her there was Bobby Ferguson, and
18 he demeaned her, ladies and gentlemen. You probably remember
19 her testimony, he demeaned her, and he made her fear for her
20 job because she had the audacity to complain that Ferguson
21 wasn't doing a good job for the city and the citizens of
22 Detroit.

23 What did her boss do, what did Mr. Anwunah do? Did
24 he say, "Hey, Mr. Private Contractor, don't berate my
25 employee"? No, he sat there, sat on his hands. He knew all

1 too well the power of Bobby Ferguson.

2 Speaking of power, you heard from a police officer.
3 Now, you might wonder why you heard from this police officer.
4 Well, this is Officer Michael Fountain. I think you heard from
5 him early on in this trial, probably seems like a long time
6 ago. I guess it was. He testified that he gave Ferguson
7 tickets. He was an environmental officer who worked in the
8 10th Precinct, and he gave out environmental tickets, people
9 that kept so much trash on their property that it was a safety
10 hazard, or there's a rat problem, there were weeds going crazy.
11 There were, and in Mr. Ferguson's case, he was dumping, dumping
12 his own trash and debris onto property owned by the City of
13 Detroit.

14 And at about the same time, Mayor Kilpatrick had,
15 shortly thereafter these tickets were issued, Mayor Kilpatrick
16 made Bobby Ferguson his co-chair to the Motor City Makeover.
17 He was supposed to be in charge of making the city look
18 beautiful. He himself, Ferguson, dumping on city property,
19 dumping debris and trash. Officer Fountain gave him tickets
20 for that.

21 Instead of paying his tickets and cleaning up his
22 property, what did he do? Ferguson went on the day that the
23 case was set for trial in February of 2002, he showed up in
24 court, Officer Fountain showed up there, just doing his job as
25 a Detroit police officer. Bobby Ferguson showed up flanked by

1 Mayor Kilpatrick's EPU, two of his bodyguards. Other police
2 officers --

3 (Juror exited the room.)

4 **THE COURT:** Just be a moment, folks.

5 (Momentary pause.)

6 **THE COURT:** Okay.

7 **MR. BULLOTTA:** Bobby Ferguson came to court to fight
8 his tickets, not fight his tickets, basically get them
9 dismissed. He was flanked by two Detroit police officers in
10 the EPU unit that were bodyguards for Mayor Kilpatrick, and
11 Bobby approached an officer, Officer Fountain, and he said, "It
12 would be in your best interest to dismiss these tickets. We
13 know you live in the city and we know you have kids."

14 He made a direct threat to a police officer, and he
15 had backup. So if Ferguson had the kind of power -- and, by
16 the way, Officer Fountain, he was scared for his family's
17 safety. He told you that. He went and he told the prosecutor,
18 which wasn't even true, he can't proceed, he doesn't have the
19 evidence.

20 That's not why he dismissed the tickets. He
21 dismissed the tickets because he was scared. And if
22 Bobby Ferguson and Ferguson's power and connections can scare a
23 Detroit police officer into dismissing tickets, an honest
24 police officer like Officer Fountain, do you think really that
25 somebody like Avinash Rachmale, the man from a small farming

1 village in India, do you think he's going to have a shot with
2 Bobby Ferguson?

3 I want to talk about some other people who made
4 illegal payments and kickbacks. Marc Andre Cunningham, this
5 was another one of Mayor Kilpatrick's very close friends. In
6 fact, the mayor made him executive assistant in 2006. Just
7 before he became executive assistant in the summer of 2006, he
8 had gotten a deal done with his uncle's company. His uncle had
9 a company that managed money, called Syncom, and Syncom, with
10 the help of Cunningham, got a \$30 million investment from the
11 city's pension funds, and Mr. Cunningham was due a commission.

12 Shortly after Mr. Cunningham started working as the
13 executive assistant for Mayor Kilpatrick, he got the word. The
14 word was that he was going to have to pay part of his
15 commissions to Bernard Kilpatrick. Why? Bernard Kilpatrick
16 didn't do anything. Bernard Kilpatrick was not his consultant.
17 "No deal without me" applied even to Kwame Kilpatrick's closest
18 friends.

19 So Andre Cunningham gave cash to Bernard Kilpatrick.
20 He said he met him in the basement of the City-County Building
21 near the barbershop and he would give him the money. And he
22 said that sometimes Kwame Kilpatrick would ask, "Have you taken
23 care of my dad?" Or ask when the money is coming in. And
24 Andre Cunningham told you that he made sure to tell
25 Kwame Kilpatrick when he was taking care of Bernard. He wanted

1 credit for that.

2 Now, you heard from Derrick Miller. Derrick Miller
3 was -- and I mentioned him because he's told you about all
4 kinds of different parts of his case, but I want to talk about
5 him now a little bit. He was Kwame's best friend, essentially,
6 since ninth grade. Those two have been together for a long,
7 long time. And he was made chief administrative officer when
8 Kwame Kilpatrick became mayor in 2002.

9 Well, he, Miller, had a bribery scheme planned with
10 a company called Jones Lang LaSalle with a couple of the
11 employees, and one was a consultant and one was an employee.
12 But the idea was, when the city -- when the city would do a
13 real estate transaction, they would sell some city property or
14 lease some city property, and a commission from Jones Lang
15 LaSalle would be paid to this man named Tim Cook. And so the
16 idea was that they were going to share that money, the
17 commissions, with Derrick Miller.

18 The only problem was the city didn't have a contract
19 at that time with Jones Lang LaSalle, so they needed to get a
20 contract. And you heard the testimony from Derrick Miller that
21 the city was leaning towards another real estate company called
22 the Staubach Group, so because Miller was worried that they
23 might not get the Jones Lang contract, he went to
24 Kwame Kilpatrick and he told him, "If you pick Jones Lang
25 LaSalle, that that could be good for us financially," and Jones

1 Lang LaSalle was picked.

2 And then each time the city did a real estate
3 transaction and commissions were paid to Tim Cook, Tim Cook got
4 the cash and gave Derrick Miller his portion. He told you he
5 took that portion to Mayor Kilpatrick and he paid him in his
6 office or in the barber chair room, and he said that the mayor
7 wasn't even sure sometimes what the money was for, and he would
8 say, "What's this for?" Miller would say he'd just say, "JLL,"
9 for Jones Lang LaSalle. Mayor would just say, "Cool," and take
10 the money. Those were bribes.

11 There was another bribe that happened. This one was
12 instituted by Kwame Kilpatrick. There was a man named Andrew
13 Park who was starting an Asian themed restaurant on the Detroit
14 River on the riverfront in the fall of 2007, but he had fallen
15 on some hard times in the development of his restaurant and he
16 needed an infusion of cash. He needed money. So he went to
17 the Detroit Pension Funds, and he was trying to get an
18 investment, which he eventually did.

19 And Kwame Kilpatrick found out about that because he
20 asked Derrick Miller, he said, "See if you can get some cash
21 from your Asian Village guys." And Miller did that. He went
22 to Andrew Park, he testified about this. Park gave him \$10,000
23 in cash, which Derrick Miller delivered to Kwame Kilpatrick in
24 the bathroom of the Asian Village restaurant, in the bathroom
25 where there are no cameras.

1 I want to move to Cobo Hall and talk about a
2 gentleman named Karl Kado. Hard to understand, I have to
3 admit, but what he told you was -- well, before I get into
4 that, Cobo Hall, as you heard the testimony, is controlled by
5 the City of Detroit, and Karl Kado was a major contractor who
6 got major contracts during Kwame Kilpatrick's administration.
7 He got a cleaning contract first for \$6 million a year, is
8 about what he made, and then he got an electrical contract for
9 \$10 million a year, and he was the exclusive person. So if
10 anyone needed cleaning services at Cobo, had to go through his
11 company, Metro Services organization. If you needed electrical
12 for the auto show, you had to use his company, Metro Services.

13 He testified that the mayor would call him and say,
14 "Karl, I need to see you," and he testified what that meant to
15 him is he had to get money together. He said usually \$10,000
16 cash. He would get the money together and then he would give
17 it to the mayor of the City of Detroit. He said sometimes it
18 was at Cobo Hall in his office, the mayor would come, and
19 sometimes Derrick Miller would come pick it up. But one thing
20 he said was the mayor would always call first.

21 Let's look at this text. This is Meagan Pitts, one
22 of the secretaries, "Mr. Mayor, Karl Kado missed your call just
23 now."

24 Sometimes Kado said he would deliver, he would go to
25 the mayor's office in person and deliver the cash. And Derrick

1 Miller, by the way, supported, supported Karl Kado. He
2 testified that there were times that he was told by
3 Mayor Kilpatrick, "Go see Karl Kado and pick up something for
4 me," and he'd go and he'd pick up \$10,000 in cash. He said
5 that happened on a couple occasions. And the mayor knew,
6 Kwame Kilpatrick knew that that money was not a gift. That
7 money is coming from someone who's got \$16 million in exclusive
8 contracts at Cobo Hall. It was bribery, and he knew that.

9 Kado also paid Bernard Kilpatrick between 200 and
10 \$300,000, he testified, including a final payment in 2005 of
11 \$100,000. Well, did the -- did paying members of Kilpatrick
12 Incorporated, like the mayor and Bernard Kilpatrick, did that
13 get you anything? Let's look at this text message.

14 Bernard Kilpatrick to Derrick Miller, "Last thing
15 for today, you have to call Lou," that's Lou Pavledes, the
16 director of Cobo Hall at the time, "and give okay for Karl,"
17 Karl Kado, "to deal with the electrical in June."

18 See, Karl Kado started out with cleaning and then he
19 went to electrical.

20 Think about what this means, this text message
21 means. Consider the significance of it. Bernard Kilpatrick is
22 not a city employee. He's not the director of Cobo Hall.
23 Bernard Kilpatrick is the mayor's father. But he's telling
24 Derrick Miller, who at the time was the chief administrative
25 officer, the head of Cobo Hall, he's telling him, "Call Lou

1 Pavledes, the director of Cobo, and basically tell him to deal
2 with Karl on the electrical contract."

3 Mr. Shea would like you to believe that Karl Kado
4 hired Bernard Kilpatrick as a consultant and this was all on
5 the up and up. If that's true, where is a single check from
6 Karl Kado to Bernard Kilpatrick? Where's a single invoice?
7 Karl Kado told you he didn't need a consultant, he was worried
8 about his contracts, and that's why he was worried to say no to
9 Bernard Kilpatrick. He wasn't the only one worried about
10 saying no to Bernard Kilpatrick.

11 On August 30, 2005, this letter was sent to
12 Karl Kado. Call it a target letter. It tells Karl Kado, "You
13 are under federal investigation." Advises him, "You might want
14 to get a lawyer and come in and talk." Well, Karl Kado was,
15 understandably, upset by the letter, and he took it and met
16 with Bernard Kilpatrick. He showed him the letter.

17 One of the first things that Bernard Kilpatrick did
18 was pat him down. Pat him down. Is that something that your
19 consultant normally does? And then he went on to offer --
20 Bernard Kilpatrick offered Karl Kado ten more years, ten more
21 years at Cobo Hall with his contracts if he wouldn't go talk to
22 the FBI.

23 Bernard Kilpatrick also tried to extort Karl Kado.
24 Kado was owed about \$3 million from his cleaning business and
25 for work that he had done on the administrative courts

1 building. He was owed a lot of money, about \$3 million by his
2 estimate. And Bernard Kilpatrick, this is on the tapes, you
3 can listen to this, he told him basically he wanted ten percent
4 of that money. He wanted \$300,000 basically. He said if he
5 doesn't pay him, it's going to take him years to get the money
6 that he was owed from the city.

7 Okay. This is the last contract I'm going to talk
8 about, and this is sludge disposal.

9 Synagro was a company that took the wastewater
10 sludge and municipal -- from municipalities and disposed of it
11 by turning it into fertilizer, essentially. And Synagro wanted
12 to do that for the City of Detroit, and eventually they got a
13 contract, a huge contract, the biggest contract in this case.
14 It was for \$1.1 billion over 25 years. They got this contract.
15 It was signed off by the mayor and city council in November of
16 2007.

17 You heard from James Rosendall, about how he got the
18 contract. He had met the mayor a couple times before and
19 talked to him about wanting to take over this Minergy contract,
20 that's another company that was going to do the same work with
21 the city, but that contract never got executed. So Rosendall
22 wanted to take over that Minergy contract with Synagro, and he
23 met the mayor when the mayor was a state representative and
24 gave him some campaign checks. He met him again after he
25 became mayor when he was visiting in Grand Rapids, and then he

1 attended a party at the Manoogian Mansion in the winter of
2 2004.

3 And the mayor saw him, they talked, and the mayor
4 took him down to the basement of the Manoogian Mansion and
5 introduced him to Bernard Kilpatrick. And he said this, "This
6 is the guy I want you to work with." The mayor is telling
7 Rosendall to work with Bernard Kilpatrick, and remember, again,
8 Bernard Kilpatrick's not a city employee. Mr. Rosendall told
9 you he didn't need a consultant, he had one, and he told you,
10 too, that he figured because the mayor is telling him to work
11 with him, that he better keep Bernard Kilpatrick happy. And he
12 did keep Bernard Kilpatrick happy for awhile, with \$5,000
13 checks on two occasions, constantly wining and dining him,
14 taking him out places and donating thousands of dollars to the
15 Kilpatrick Civic Fund and to Mayor Kilpatrick's campaign, but
16 after the contract passed in the fall of 2007,
17 Bernard Kilpatrick wanted more and he was getting angry.

18 (Audiotape was played.)

19 **MR. BULLOTTA:** Okay. That picture right there was
20 taken the same day that call was made, and after that call,
21 Rosendall met with Bernard Kilpatrick in a parking lot next to
22 Bernard Kilpatrick's offices. And at that meeting,
23 Bernard Kilpatrick threatened, threatened Rosendall. He said
24 that if he wasn't paid, he was going to blow up the deal, he
25 was going to blow up the Synagro contract. Extortion 101 by

1 Kilpatrick Incorporated.

2 Mr. Shea wants you to believe that
3 Bernard Kilpatrick was just a mere consultant hired by
4 Mr. Rosendall. I ask you these questions, would a consultant
5 threaten to go to the mayor to blow up your deal if you don't
6 pay them? Do you need to meet with your consultant in a
7 parking lot in the winter time so the FBI isn't listening? Do
8 you have to give your consultant a half case of Cristal
9 champagne and \$300 cash wrapped in a chewing gum box to keep
10 him happy? And do consultants, do they scold you when you try
11 to pay them in public?

12 (Audiotape was played.)

13 **MR. BULLOTTA:** Bernard Kilpatrick was no consultant.
14 He was an extortioner, and the only reason that Mr. Rosendall was
15 willing to pay him was because the mayor told him, "This is the
16 guy I want you to work with," and that was a billion dollar
17 contract.

18 Now, let's review this pattern because what you've
19 seen in this case is an absolute pattern that you can't deny,
20 and that is the pattern of "No deal without me."

21 1361, contract with Lakeshore, no Ferguson.
22 Contract canceled.

23 1368, held by the mayor, that's Inland's contract,
24 until Ferguson was added, then the contract was let go.

25 Amendment Number 4, held by the mayor until Ferguson

1 was paid.

2 2014, DLZ, they don't have Ferguson on their team.
3 They get their Detroit-headquartered status pulled for no
4 reason. They lose the contract, and the city loses
5 1.6 million.

6 Baby Creek, Walbridge, at the last second adds
7 Ferguson, they get the contract.

8 Kado is owed money from the city. It's held because
9 he's not paying Bernard Kilpatrick.

10 Mr. Rosendall doesn't pay Bernard Kilpatrick, what
11 does he say? I'll blow up this contract.

12 This pattern is the signature of this case. "No
13 deal without me," and that's extortion, that's illegal, and
14 these defendants are all guilty of that.

15 I want to talk to you about -- Judge Edmunds told
16 you the law, and I'm not going to go through all the law
17 because there's a lot of it, and so she spelled it out really
18 clearly. You have a copy of the jury instructions.

19 But I do want to talk about Count 1, which is the
20 RICO conspiracy, and RICO conspiracy sounds complicated but
21 it's really not all that complicated. A conspiracy is just an
22 agreement by two people to commit a crime. That's all it is.

23 But for a RICO conspiracy, you need a few more
24 things. You need to have an enterprise. That's also not that
25 complicated. An enterprise, as the judge told you, is an

1 ongoing association of people working together for a common
2 purpose, and it doesn't have to be anything formal.

3 Consider this text from June of 2002, the beginning
4 of Mayor Kilpatrick's administration. Bernard Kilpatrick
5 talking to Kwame Kilpatrick, "Just met with Bobby Ferguson.
6 The three of us need to meet at least twice a month for an hour
7 for awhile."

8 Kwame Kilpatrick, "Cool."

9 Derrick Miller testified that he went to these
10 meetings, they were called sit-downs, and he told you what
11 happened there. At those meetings, Bernard Kilpatrick and
12 Bobby Ferguson talked about what city contracts they wanted,
13 what was coming up and how they were going to get those. They
14 were working together.

15 Also, for a RICO conspiracy, you have to find that a
16 defendant agrees that at least one person in the association
17 would commit two of the types of crimes that I basically have
18 just been talking about for the last hour, extortion, fraud,
19 bribery, obstruction of justice. But you don't have to find
20 that those acts were committed, which we've proven in this case
21 they were committed, but we don't have to find that for
22 Count 1, just that there was an agreement.

23 And I would submit to you, ladies and gentlemen,
24 that the evidence of that agreement and that conspiracy is
25 overwhelming, from the text messages to the bank records to the

1 other records, the witnesses, and one very, very key fact. Ask
2 yourself, if Kwame Kilpatrick was not part of a conspiracy with
3 Bobby Ferguson and Bernard Kilpatrick, could they have ever
4 extorted a single person without that power of the mayor's
5 office? No, obviously not.

6 Would Lakeshore have felt compelled to pay \$820,000
7 for something they didn't need? Would Rosendall have felt
8 compelled to hand Bernard Kilpatrick cash in a chewing gum
9 wrapper on December 20 of 2007? I think you all know the
10 answer to that.

11 This has been a long trial, and I can't sit down
12 without just thanking all of you for your diligence and for --
13 the judge already did it, so I just want to echo what she said.

14 And I want to end by reminding you about a part of
15 the trial that sticks in my mind. There was a woman named Mary
16 Lannoye at the beginning of this case, she was the former
17 budget director of the State of Michigan under both a
18 Republican governor, Engler, and also a Democratic governor,
19 Granholm, and on cross examination, Mr. Thomas asked her this
20 question, he asked her, "As director of the budget for the
21 entire state, you had a lot of power?"

22 And she thought about the answer and she said, "I
23 had a lot of responsibility."

24 Kwame Kilpatrick, the evidence shows, wanted money.
25 He wanted power. He was not so interested in responsibility,

1 he was more interested in opportunity. And you might wonder
2 how Kwame Kilpatrick thought he could get away with this
3 breadth of corruption in city government, corruption that took
4 us almost five months to show you with witness after witness.
5 And I submit that the evidence shows that he thought the rules
6 did not apply to him, he thought that he was somehow above the
7 law. But with your verdict, ladies and gentlemen, you can
8 confirm that nobody, least of all a public official with an
9 oath to the people, is above the law.

10 Kilpatrick Incorporated was wrong, and it was
11 criminal. And now I ask you to do, on behalf of the United
12 States, the only thing that's justified based on their actions
13 and find them guilty of every single count in this indictment.

14 Thank you.

15 (2:17 p.m.)

16 (End of excerpt.)
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C E R T I F I C A T I O N

I, Suzanne Jacques, Official Court Reporter for the United States District Court, Eastern District of Michigan, Southern Division, hereby certify that the foregoing is a correct transcript of the proceedings in the above-entitled cause on the date set forth.

Date: February 11, 2013

s:/Suzanne Jacques
Suzanne Jacques
Official Court Reporter